

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

DAVID STONE, et al.,

Defendants.

22 Civ. 3553 (VM)

ORDER

VICTOR MARRERO, United States District Judge.

On September 19, 2022, defendant John Robson informed the Court about a dispute with the Securities and Exchange Commission (the "SEC") regarding whether the SEC could condition the release of \$150,000 from the Court-ordered asset freeze on Robson placing \$450,000 in escrow. (See Dkt. No. 103.) Robson seeks the release of funds to pay legal fees. The Court has reviewed the parties' letters on this issue. (See Dkt. Nos. 121, 122, 123, 131.)

The standard for unfreezing assets to pay for attorneys' fees is that "the defendant must establish that the funds he seeks to release are untainted and that there are sufficient funds to satisfy any disgorgement remedy that might be ordered in the event a violation is established." SEC v. Santillo, No. 18 Civ. 5491, 2018 WL 3392881, at *4 (S.D.N.Y. July 11, 2018) (quotation marks omitted). "Under this standard,

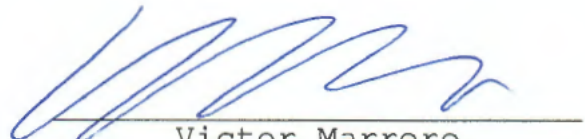
defendants have been barred from utilizing frozen assets to pay legal fees associated with representation in a civil action when it is not clear 'whether the frozen assets exceed the SEC's request for damages' or disgorgement." SEC v. FTC Capital Mkts., Inc., No. 09 Civ. 4755, 2010 WL 2652405, at *7 (S.D.N.Y. June 30, 2010) (citation omitted).

Under the May 24, 2022, Stipulated Order Relating to Defendant Robson and Relief Defendant Adams, Robson is subject to a \$21,637,257 asset freeze, representing the potential judgment amount against him. (See Dkt. Nos. 17, 46, 47.) Because Robson does not have sufficient assets frozen to satisfy this amount, the Court finds the SEC may condition the release of \$150,000 in legal fees on Robson setting aside \$450,000 in escrow. The Court has reviewed Robson's other arguments and finds them unpersuasive.

For the reasons stated above, Robson's request to preclude the SEC from conditioning the release of \$150,000 for legal fees on setting aside \$450,000 is hereby **DENIED**.

SO ORDERED.

Dated: 7 October, 2022
New York, New York


Victor Marrero
U.S.D.J.